

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

Plaintiff,

Case No. 1:20-MJ-153
(HJK)

vs.

September 28, 2020

PASCALE CECILE VERONIQUE FERRIER,

Defendant.

TRANSCRIPT OF ARRAIGNMENT AND DETENTION HEARING
BEFORE THE HONORABLE H. KENNETH SCHROEDER, JR.
UNITED STATES MAGISTRATE JUDGE

APPEARANCES:

JAMES P. KENNEDY, JR.
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INTERPRETER:

AFAF JEAN PICKERING, French Interpreter

PROBATION:

BRIAN M. MAMIZUKA, USPO

DEPUTY CLERK:

LLANE M. GUIDOTTI

COURT REPORTER:

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1 (Proceedings commenced at 2:11 p.m.)

2 THE CLERK: All rise. United States District Court
3 for the Western District of New York is now in session, the
4 Honorable H. Kenneth Schroeder, Jr. presiding.

5 THE COURT: Be seated, please.

6 THE CLERK: The United States versus Pascale Cecile
7 Veronique Ferrier, docket number 20-M-153.

8 This is the date set for an identity hearing,
9 arraignment, and detention hearing.

10 Assistant United States Attorney Timothy Lynch
11 appearing on behalf of the government.

12 Assistant Federal Public Defender Fonda Kubiak
13 appearing with defendant.

14 United States Probation Officer Brian Mamizuka, and
15 French Interpreter Afaf Jean Pickering.

16 THE COURT: Good afternoon.

17 ALL PARTIES: Good afternoon, Judge.

18 THE COURT: Do we have participants by phone again?

19 THE CLERK: We do.

20 THE COURT: All right. For those who are listening
21 by telephone, I must once again admonish as follows:

22 Everyone who is present by way of audio conference is
23 admonished that recordings or recording any audio of this
24 court proceeding is strictly prohibited. You may not record
25 any audio of any part of this proceeding. You may not let

1 anyone else record any audio of this court proceeding. There
2 are serious possible sanctions for a violation of these
3 prohibitions on recording including, among other things, a
4 finding of contempt of court.

5 There is a housekeeping matter that I want to first
6 address. And it appears, Mr. Lynch, that we have fallen back
7 into the old problems of orders to produce.

8 I've been advised today that the Marshal Service
9 indicated it did not get an order to produce and, therefore,
10 it had not made arrangements to have the defendant present,
11 that it was now, as its procedure, relying on the so-called
12 calendar entries made by the court deputy.

13 But as far as I know, we have never eliminated the
14 orders to produce procedure after the Yukon calendar process
15 was scrapped, and the order to produce filing is the
16 obligation of the U.S. Attorney's Office.

17 As I indicated in the past, during my numerous
18 frustrations when defendants were not brought in, it was a
19 matter for the executive branch of government to solve, since
20 the Marshal Service is part of the executive branch, and the
21 U.S. Attorney's Office is part the executive branch.

22 And when we schedule things, we note them in a
23 calendar electronically, but that does not eliminate the need
24 for an order to produce because the Marshal Service takes the
25 position that, well, sometimes they don't get the calendar or

1 don't look at the calendar until just the day or two before
2 and, therefore, they're not always aware of when they're
3 supposed to produce somebody.

4 I'm not going to get into that situation as to who
5 is, once again, responsible for the failures, because it's all
6 resting with the executive branch of government.

7 MR. LYNCH: And, Judge --

8 THE COURT: It's -- wait -- it's not the Court's
9 obligation.

10 MR. LYNCH: I wasn't going to say that.

11 THE COURT: It's not the Court's obligation to issue
12 an order to produce.

13 And what I'm asking is that you report back to
14 U.S. Attorney Kennedy, and ask that he issue a directive to
15 all assistants that they have an obligation, especially in
16 criminal cases, to make sure that the appropriate order to
17 produce for a defendant who is detained is, in fact, served in
18 a timely way to the Marshal Service, and --

19 MR. LYNCH: And, Judge, I'll just respond and say
20 that Chief Judge Geraci and United States Attorney Kennedy
21 last year dealt with this issue. And it was my understanding,
22 through conversations with United States Marshal Charles
23 Salinas, that the marshals were going to check every Friday
24 with the Court, no longer were we going to have to issue
25 orders to produce at all, and they were going to rely on the

1 Marshal Service checking with the Court, finding out who needs
2 to be produced, and then they would produce them.

3 And Lee Eckenrode confirmed that today saying orders
4 to produce haven't been done in over a year. So, now --

5 And the other thing I would add, Judge, is I -- we
6 lay no blame on the Court this morning.

7 THE COURT: There is no legitimate --

8 MR. LYNCH: There is none.

9 THE COURT: -- there's no legitimate basis --

10 MR. LYNCH: Well, yeah.

11 THE COURT: -- to lay claim --

12 MR. LYNCH: Yeah.

13 THE COURT: -- on --

14 MR. LYNCH: There wouldn't be.

15 THE COURT: -- the Court.

16 MR. LYNCH: And -- and I made efforts right away to
17 make sure the FBI brought her to court today in a timely
18 manner. Here she is.

19 THE COURT: I'm not criticizing you, Mr. Lynch.

20 MR. LYNCH: Okay.

21 THE COURT: I'm not criticizing you, at all. I'm
22 just pointing out this frustration that I've had for I don't
23 know how long about the executive branch of government and its
24 inter agencies not being able to communicate and solve simple
25 problems. At one time, we did solve it. The Court solved it,

1 along with the assistance of the clerk's office by creating
2 what was called the Yukon calendar. When entries were made,
3 that went on automatically to the calendar of the
4 U.S. Attorney's Office, the calendar of the Marshal Service,
5 the calendar of the Court, the calendar the U.S. Probation
6 Office, and everybody had it at the same time, and we could
7 trace those calendar entries if somebody claimed they didn't
8 get it.

9 All I'm saying is, we cannot have this situation
10 develop as it has existed in the past of defendants not being
11 produced. And I will tell you that if it does occur, and it's
12 not the responsibility of the Court, and it falls within the
13 executive branch, the time lost is going to be counted against
14 the government for speedy trial purposes.

15 MR. LYNCH: Thank you, Judge.

16 THE COURT: Thank you.

17 All right. Since our last appearance, I have been
18 advised that a grand jury sitting in the District of Columbia
19 returned an indictment against an individual named Pascale
20 Cecile Veronique Ferrier. But we still have the issue of the
21 identity of the person named in the indictment, and the
22 identity of the person who appears before the Court here
23 today.

24 So, Ms. Kubiak, let me ask you first, if you have
25 received a copy of that indictment returned by the District of

1 Columbia?

2 MS. KUBIAK: I have, Your Honor.

3 THE COURT: So would you not agree that, for purposes
4 of the probable cause issue, that issue is now moot by reason
5 of an indictment?

6 MS. KUBIAK: Yes, I would agree with that,
7 Your Honor.

8 THE COURT: But it would still appear, unless the
9 defendant indicates otherwise, that there is an issue of
10 identity?

11 MS. KUBIAK: Judge, although the government does have
12 the burden of showing that the defendant is the person wanted
13 in the District of Columbia where the charges are pending,
14 Ms. Ferrier is not at this time requesting an identity
15 hearing, and will waive such.

16 THE COURT: All right. The defendant, having now
17 waived her right to what is known as an identity hearing, the
18 only other issue to be resolved at this stage is whether the
19 defendant should be released and allowed to voluntarily return
20 to the District of Columbia, or whether the government is
21 moving to have her detained and will then undertake
22 transportation of the defendant to the district.

23 MR. LYNCH: Correct, Judge. Well, first, I think I'd
24 ask the Court to arraign her on the indictment.

25 THE COURT: Yes, you're correct.

1 Ms. Kubiak, have you and Ms. Pascale Cecile Veronique
2 Ferrier received a copy of the indictment returned by the
3 grand jury sitting in the District of Columbia?

4 MS. KUBIAK: We have, Your Honor.

5 THE COURT: And does she waive the reading thereof
6 and enter a plea?

7 MS. KUBIAK: Yes, Your Honor. I waive a further
8 reading, and enter a plea of not guilty on her behalf at this
9 time.

10 THE COURT: All right. That brings us, then, to the
11 question of release of the defendant pending her appearance in
12 the District of Columbia on the indictment, or the government
13 moving to have her detained and then transported to the
14 District of Columbia.

15 MR. LYNCH: Judge, the government is moving for
16 detention. As indicated at the last proceeding, Your Honor,
17 the Court -- or, the government is moving under 18 USC
18 3142(f)(1)(A), in that the defendant is now indicted with a
19 crime of violence; that is, threatening the President of the
20 United States by sending in the mail an envelope that
21 contained not only verbal threats, but also contained the
22 toxin ricin, and that ricin has been confirmed by the National
23 Bioforensic Analysis Center.

24 In addition, the government is moving, pursuant to
25 3142(f)(2)(A), in that she is a serious risk of flight.

1 As the Court's aware, the government bears a dual
2 burden in this case based on its request for detention under
3 two provisions: One is that by clear and convincing evidence,
4 that the defendant poses a danger to the community; and, two,
5 by preponderance of the evidence, that she is a serious risk
6 of flight.

7 In support of the government's proffer, Your Honor,
8 the first thing the government does, it relies on the
9 allegations contained in the criminal complaint, as well as
10 the now grand jury finding that there's probable cause to
11 believe that Ms. Ferrier did threaten the President of the
12 United States when she mailed that letter containing ricin to
13 him on September 18th.

14 In addition, Judge, the government notes that the
15 defendant is a Canadian citizen. She also has French
16 citizenship, she carries a French passport. And she's charged
17 with threatening to take the life and cause bodily harm to the
18 President of the United States.

19 The envelope also contained a letter, Judge, that if
20 the ricin didn't work, she would find another poison, or she
21 would come to the United States with her gun.

22 Marked as Government Exhibit Number 1, Judge, is, for
23 purposes of this hearing, is the envelope and the letter sent
24 to the President of the United States, Donald J. Trump. It's
25 sent from Canada where the defendant resides.

1 And on page 2 of this exhibit, it includes the
2 threatening letter that was sent by Ms. Ferrier to the
3 President.

4 And I note in here several important things. One,
5 the defendant threatened that if he doesn't give up the
6 election, he -- she made a special gift for him, which was the
7 ricin, to help him make the decision.

8 And then she said if it doesn't work, I'll find a
9 better recipe for another poison, or I might use my gun when
10 I'll be able to come. Enjoy.

11 And then she ends it with Free Rebel Spirit.

12 And that language at the end, Judge, Free Rebel
13 Spirit, is important, because there were also letters
14 containing a white powdery substance that were sent to Texas
15 earlier in September. And those letters contained similar
16 language used in the letter, including that it ends with Free
17 Rebel Spirit, in capital letters.

18 In addition, it also used the same language, "a
19 special gift for you," and that she would be coming with a gun
20 if she was able to get into the United States.

21 I've spoken with the AUSAs in Texas, Judge, and
22 preliminary reports are that four latent fingerprints from
23 those -- some of those letters in Texas have been linked to
24 Ms. Ferrier. And, again, those letters are consistent with
25 the same letter that was sent to the President of the United

1 States on September 18th, 2020.

2 Now on September 20th, 2020, Ms. Ferrier attempted to
3 enter the United States at the Peace Bridge port of entry.
4 There, she was encountered by a Customs and Border Protection
5 officer. When she failed to come into his inspection lane,
6 the officer went to the vehicle, approached it.

7 And at that point, the defendant said -- well, the
8 officer first asked, Is there anything you need? Are you
9 okay?

10 And she said, No, I'm wanted by the FBI for the ricin
11 envelope.

12 It was at that point that she was taken from her
13 vehicle, she was handcuffed and searched. And on her person,
14 marked as Government Exhibit Number 2, is a semiautomatic
15 handgun loaded with seven rounds of ammunition, and that's
16 contained on the second page of this exhibit.

17 So she's following through with her initial threat
18 that she made in the letter, not only to the individuals in
19 Texas, but to the President of the United States, that if the
20 ricin didn't work, she might use her gun when I'll be able to
21 come.

22 But it wasn't just a semiautomatic gun that she had
23 in her possession. In Government Exhibit Number 3, she also
24 had in her pocket this spring knife. And within her vehicle
25 in a backpack, she also had approximately 294 rounds of

1 ammunition, pepper spray, a stun gun, and a baton.

2 She was loaded for bear, Judge.

3 I mean, certainly 294 rounds of ammunition can do
4 great damage, let alone the seven rounds of ammunition that
5 were in that semiautomatic pistol that was on her person.

6 Later that afternoon, after she was detained, she
7 admitted that she had sent ricin to locations in Texas and to
8 the President of the United States.

9 In addition to her identification documents that she
10 had at the bridge, Judge, which included a Canadian passport,
11 a driver's license from Canada, she also had what's marked as
12 Government Exhibit Number 4, which is a Texas -- appears to be
13 a Texas driver's license in the name of Jane Ferrier.

14 Now, I confirmed with Texas law enforcement that this
15 is not a legitimate Texas driver's license. The driver's
16 license number that's issued on this card is to another
17 person, and not Jane Ferrier. And the person that's depicted
18 in this photograph appears to be the defendant, Ms. Ferrier.

19 Now, the information -- not only is the first name
20 incorrect, it's different, but also the date of birth is
21 different. Her date of birth is actually May 8th, 1967. And,
22 in fact, on this license, it's May 8th, 1974.

23 So she had, obviously, the ability to access
24 fraudulent documents to make her way throughout the United
25 States at the time without suspicion.

1 Now, that's not the only false identity document,
2 though, that she's had, because she had -- and I'll get to it
3 in a little bit, but in 2019 she had a similar Texas driver's
4 license, same number, same photo, same date of birth. But
5 that original one from 2019, Judge, that's still in Texas in
6 evidence, along with the handgun that was found on her on
7 March 12th of 2019.

8 So we have two things, Judge. We have the threats to
9 the President, and these weren't -- I mean, these weren't just
10 white powder, this is actual ricin, a toxin that can kill an
11 individual or cause serious bodily injury. But thank goodness
12 for the protections that are already in place, mail that's
13 sent to the President is sorted, checked, inspected. And it
14 was at that point that it was found, it was discovered, and
15 then it was sent out for testing, and found to contain ricin.

16 So it's on that basis, Judge, not only that the
17 government has moved for her detention based on her danger,
18 but also her risk of flight.

19 And the next thing I want to talk about, Judge, is
20 her pretrial services report. And I proffer that report, the
21 contents of that report, and the recommendation of Officer
22 Brian Mamizuka who, as you know, Judge, he -- he works in an
23 independent agency. He looked at the characteristics of the
24 defendant, he looked at the offense, and he determined that
25 there are no conditions or combination of conditions which

1 would assure not only against her danger but also against her
2 risk of flight. And he stated a couple of things that I think
3 are important.

4 She has no status here in the United States. She's a
5 dual citizen of France and Canada, and -- and I'll get to it,
6 Judge, but in 2019, Ms. Ferrier was arrested in Texas with her
7 French passport. That passport was returned to her. But when
8 Ms. Ferrier came to the border on September 20th of 2020, she
9 did not have that French passport with her. That is not in
10 the government's possession at this point, so she apparently
11 still has access to it.

12 She has strong ties to France and Canada. She only
13 moved to Canada in 2008, only became a citizen there in 2015.
14 She is a natural-born citizen of France, a place where she
15 could go should she be released.

16 She apparently has lost her job in Canada. She has
17 access to false pass -- or, false identification documents,
18 and she has traveled overseas, as noted by Officer Mamizuka.

19 But also, the assessment of danger is that she had a
20 prior charge for carrying -- unlawfully carrying a weapon in
21 the United States. She is an alien. She was here illegally
22 in March of 2019, and she had with her in her possession a
23 semiautomatic handgun.

24 But not only the nature and circumstances of the
25 offense, and the fact that she had, at her time of her arrest,

1 a handgun, 294 rounds of ammunition, a baton, a stun gun,
2 those all indicate her dangerousness to this community, as
3 well as to the President of the United States and the
4 individuals in Texas who received similar letters.

5 Now, the Court also has to look at, Judge, the
6 factors set out in 3142(g), and I'm going to go over those
7 briefly, Judge.

8 The nature and circumstances of the offense charged.
9 This is a crime of violence. So in that regard, that is a
10 factor that you have to consider as far as whether or not
11 release is appropriate.

12 And here, the facts set forth in the criminal
13 complaint, the criminal complaint alleges a pattern of
14 attempts to kill and cause bodily injury to the President and
15 the individuals in Texas.

16 As I noted, she was found in possession of a
17 semiautomatic handgun, more than 290 rounds of ammunition, a
18 knife, and other dangerous weapons.

19 It appears that the defendant was following up on her
20 threat to the President that she would come into the United
21 States with her gun.

22 There's no reason to believe, Judge, that if this
23 defendant is released, she won't in some way attempt to cause
24 bodily injury or kill the President or other individuals in
25 the United States.

1 The second factor you have to consider, Judge, is the
2 weight of the evidence, based on the evidence presented not
3 only in the criminal complaint, the admissions that the
4 defendant made regarding her involvement in these letters,
5 this is a strong case against the defendant. The likelihood
6 of her conviction is high. And, Judge, I would expect that in
7 light of the ricin that was sent to this -- to the
8 President -- or, I'm sorry, to the President and appear to
9 have been sent to the individuals in Texas, there are going to
10 be additional charges not only in the District of Columbia,
11 but also in Texas, and that creates another reason to flee.

12 And, in fact, I also expect that there may be charges
13 considered here in the Western District of New York, not only
14 for her possession of the fraudulent documents, but also for
15 her possession of a handgun.

16 You also have to look at the history and
17 characteristics of this defendant. The defendant's history
18 includes a 2019 incident in Texas where, at that point, Judge,
19 she was found in possession of another semiautomatic handgun,
20 as well as a magazine that contained 12 rounds of ammunition.
21 And that photo of that handgun is set forth in Government
22 Exhibit Number 5, which is a three-page exhibit.

23 Here on page 2 of the exhibit, you'll see that she
24 has a baton, it's a collapsible baton, in her possession, as
25 well as pepper spray, and then just another photograph of the

1 ammunition and the magazine that contained 12 rounds of
2 ammunition.

3 She also had in her possession at that time, Judge, a
4 ballistic vest.

5 These aren't hunting rifles, Judge, this is a
6 semiautomatic pistol. She's got other weapons that she'd be
7 able to use. But she also had in her possession in 2019 a
8 ballistic vest. That's, I think, a significant factor to
9 consider also, Judge.

10 This is not, again, a lawful citizen in possession of
11 a firearm, this is an alien of the United States with a
12 semiautomatic handgun not registered to her, and she's got a
13 ballistic vest. She also had a knife at that time.

14 And as set forth in Government Exhibit Number 6,
15 Judge, she had this identification card, driver's license.
16 Again, in Jane -- the name of Jane Ferrier, date of birth
17 May 8th, 1974. The same driver's license number for the one
18 that I previously marked in Government Exhibit Number 4.

19 And I confirmed with the law enforcement in Texas
20 that this driver's license is still in Texas. So she has had,
21 within the last year and a half, she has gotten access to two
22 fraudulent driver's licenses in a name of another person,
23 using a driver's license number that goes with another person
24 and that has her photograph on it.

25 This is strong evidence that she is a serious risk of

1 flight. But when you consider the charges here, not only -- I
2 realize the charge right now is only a maximum penalty of five
3 years, but the likelihood of conviction, Judge, and the
4 recommended guideline range, Judge, I would expect to be quite
5 high here, and that she would be facing at least -- even at
6 this point, a substantial prison term, and that gives her a
7 strong reason to flee.

8 And are there really any conditions, Judge, that
9 could be imposed here? Because she goes to Canada, she cannot
10 be supervised by U.S. law enforcement.

11 And, Judge, if I can just look at my phone real
12 quick. I received an email today prior to the proceeding,
13 which I showed to defense counsel, but -- or, I shared with
14 defense counsel, that the Canadian National Microbiology
15 Laboratory conducted a molecular analysis of samples taken
16 directly from a mortar and pestle seized from Ms. Ferrier's
17 residence in Quebec, and confirmed the presence of ricinus
18 communis nucleic acid, and it tested positive for ricin.

19 So that's another indication, another piece of
20 evidence, that links not only this defendant to the mailings,
21 but also to the ricin that was sent to the President of the
22 United States.

23 The final factor you have to consider, Judge, is the
24 danger posed to the community. And there is no greater threat
25 to the community than taking someone's life or causing bodily

1 injury to someone. And it is clear that this defendant has
2 the desire to kill the President of the United States, and
3 individuals that she feels somehow wronged her in Texas when
4 she was arrested in March of 2019.

5 When she was arrested, not only had she sent the
6 ricin previously, but she was in possession of that
7 semiautomatic handgun and more than 290 rounds of ammunition
8 which, again, demonstrate that if she's released, there's no
9 reason to believe that she won't stop in her efforts to kill
10 the President or the individuals in Texas or others.

11 So, Judge, based on that, we believe the government
12 has established by clear and convincing evidence that this
13 defendant poses a danger to the community. And, Judge, I
14 think likewise, by a preponderance of the evidence, the
15 government has established that she is a serious risk of
16 flight. Again, she has no status in the United States. She
17 has a Canadian and French citizenship. She has access to
18 false identity documents. And we'd ask that you find, Judge,
19 that there are no conditions, or combinations of conditions,
20 which will assure against her danger and her risk of flight.

21 And, Judge, just so the record is clear, I provided
22 Ms. Kubiak with all of these exhibits approximately two hours
23 in advance of the hearing. So she not only has the documents
24 I was going to rely upon, but she also received photos of the
25 items seized from -- some of the items seized from

1 Ms. Ferrier. Last week I provided them to her.

2 Thank you, Judge.

3 THE COURT: Ms. Kubiak?

4 MS. KUBIAK: Yes, Your Honor, thank you.

5 Thank you, Judge. As Ms. Ferrier sits here today,
6 she is presumed innocent, and that is one of the central
7 tenets of our criminal justice system. So with respect to
8 what Mr. Lynch has just proffered here, I think that I'm
9 asking the Court to keep that in its purview as we go through
10 some of the allegations that were made.

11 In addition, the Bail Reform Act is clear that
12 nothing in the section of the Act shall be construed or
13 modifying or limiting the presumption of innocence.

14 As the government has just proffered, she's been
15 charged in a one-count indictment, Judge, with 18 USC 871,
16 which carries with it a statutory maximum penalty of five
17 years. And as Mr. Lynch indicated, there's no mandatory
18 minimum sentence attached to that charge. And the statutory
19 maximum of five years is one of the more lenient statutory
20 maximums defendants face in criminal court.

21 While detention is permissible, under 3142(f)(1), as
22 the government has proffered, it is not presumptive.

23 Former Chief Justice William Rehnquist reminds us in
24 United States versus Salerno, 481 U.S. 739, that as it relates
25 to pretrial defendants, liberty is the norm, and detention

1 prior to trial or without trial is a carefully limited
2 exception, Your Honor.

3 As the government indicated, the government has to
4 prove beyond a preponderance of the evidence that Ms. Ferrier
5 is a serious risk of flight. The risk has to be serious, not
6 just a risk.

7 Second, the government must prove dangerousness by
8 clear and convincing evidence, and that there are no
9 combination of conditions that will reasonably assure the
10 safety of any other person in the community.

11 We submit that the government has not met those
12 burdens here today.

13 3142(g) provides the factors that this Court needs to
14 consider when making a bail determination. The government has
15 focused and highlighted on two of those conditions, which are
16 nature and circumstances of the offense charged, and the
17 weight of the evidence. But, Judge, those are only two
18 factors that the Court has to consider.

19 And under (g) (3) (A), the Court has to consider the
20 history and characteristics of the person, Ms. Ferrier. I
21 submit that those history and characteristics are more
22 compelling than the two factors that Mr. Lynch outlined today.

23 Judge, she's 53 years old, she is a naturalized
24 citizen in Canada, and has resided in Valence, France, or
25 Montreal, Quebec, Canada, her entire life.

1 As Mr. Lynch indicated, she became a naturalized
2 Canadian citizen in 2015, and from 2008, she has resided in
3 the same suburb of Montreal. Prior to that, she lived her
4 entire life in Valence, France.

5 She has had a sustained and stable residence her
6 entire life. So when the probation office uses catch phrases
7 in their report such as "transient lifestyle," they really
8 have no value. The probation office overemphasizes the nature
9 and circumstances of the offense, and completely ignores the
10 history and characteristics of Ms. Ferrier.

11 And, Judge, I would indicate that the recommendation
12 for detention was made prior to the interview, so they were
13 not taking into consideration any of the history and
14 characteristics of the defendant when the recommendation for
15 detention was made.

16 I think her history and characteristics warrant
17 release. She's a highly educated individual. She has the
18 equivalent of a master's degree in engineering from France.
19 And she has significant other training and certificates and
20 degrees from Montreal.

21 The report even indicates that her son describes her
22 as a software genius, and I think her history and employment
23 bears that out.

24 She has strong ties to her community in Montreal, and
25 she's always been gainfully employed.

1 She was honest with probation during the pretrial
2 services report. And by all accounts of the government, she
3 was fully forthcoming to the CBP officers when they
4 encountered her on the bridge.

5 Ms. Ferrier has strong family ties, and her family
6 remains very supportive, and have indicated to me that they
7 will assist her and support her should this Court grant her
8 release. They have the ability to act as third-party
9 custodians. They have a support network in place for her, if
10 she cannot return to her previous residence, she can reside
11 with her son in Quebec.

12 She also does have some family ties in Texas, and
13 they may be willing to allow her to reside with them should
14 this Court be inclined to release her but not allow her to
15 return to Quebec, Canada.

16 Judge, as I indicated, she had sustained and steady
17 employment throughout her entire life, and I think her
18 employment has been rather exceptional. Up until the date of
19 her arrest, she was working for an aircraft engineering
20 company. And while she indicates to the probation department
21 that she may not be able to return, she's speculating there,
22 and she has no idea whether or not she might be allowed to
23 return should this Court release her.

24 In addition, based upon her stellar résumé, I think
25 that she might be able to obtain other prospective employment

1 opportunities if released.

2 As I indicated, Judge, she lived in the suburb of
3 Laval in Quebec for the past 12 years. Prior to that, she did
4 reside in France, but she has not returned there in over 12
5 years.

6 Mr. Lynch references her French passport. Well, I
7 don't think you have any obligation to travel with both dual
8 citizen passports, and she was traveling with her Canadian
9 passport, which the government is in possession of.

10 She indicated to pretrial services that her French
11 passport is in her residence, and if released, that passport
12 can certainly be surrendered to the Court.

13 She has extensive community ties. She has
14 volunteered at Habitat for Humanity in Quebec. She has
15 volunteered for four years as Moisson Laval, which is a social
16 assistance and skilled development program where you're linked
17 up with other individuals to mentor and assist them. And
18 she's also volunteered at a local theater company by doing
19 their website development.

20 She has absolutely no history of drug or alcohol
21 abuse.

22 Mr. Lynch puts tremendous focus on the charges that
23 were in Texas in March of 2019. However, Judge, I would note
24 in Defendant's Exhibit 1, those charges were dismissed on
25 May 17th, 2019. She served 20 days in pretrial detention, and

1 then was released.

2 In Defendant's Exhibit 2, which is I think more
3 telling, it specifically says that the charges don't meet the
4 offense. So the officials in Texas made a determination that
5 not only were they not going to pursue the charges, they made
6 a specific finding that the charges do not meet the elements
7 of the offense charged. She was released, and she was allowed
8 to remain in the United States, and voluntarily remove herself
9 a month later.

10 When Mr. Lynch says that she was here illegally,
11 there is absolutely no evidence of that, Judge. She was not
12 in the United States illegally at the time. The ICE detainer
13 or charge that's reference in the report was dismissed, and
14 based on our communications with ICE, they indicated it was
15 improvidently issued. Well, that tells me that it should have
16 never been issued in the first instance, that they didn't have
17 any cause or basis to file the charge.

18 So after she's released on May of 2019, she's free to
19 go. She's allowed to remain in our country. And then she
20 voluntarily removes herself subsequently thereafter.

21 With respect to the departure, she showed that she
22 can comply. She was instructed to depart back to Canada, and
23 she complied with those requests, and she did what she was
24 told.

25 As to risk of flight, Judge, I think that the factors

1 for nonappearance that the pretrial services lists, all of
2 those can be ameliorated with travel restrictions, request to
3 surrender travel documents, preclusion of travel outside of
4 the United States or Montreal, Quebec, and those can be
5 utilized in lieu of incarceration.

6 But I think the most important factor with respect to
7 risk of flight is, even based upon the government's own
8 proffer, she voluntarily came to the border, said that she was
9 the person they were looking for when there hadn't even been a
10 warrant issued. She wasn't absconding. She wasn't avoiding.
11 She came to the bridge and said, I understand from news
12 reports that I'm the person you're looking for.

13 So if somebody were going to run or flee, they
14 certainly do not engage in that type of conduct, Judge.

15 She also, when asked, if -- according to the
16 government's proffer -- if she had any weapons, she
17 immediately disclosed to them that she did, and they located
18 what she told them that she was in possession of.

19 That's not somebody trying to sneak into the country,
20 somebody trying to avoid or evade capture. That is somebody
21 addressing what she sees in the news report as somebody
22 wanting her and her saying, I'm here to address whatever it is
23 that's out there with respect to me.

24 There is an ICE detainer, Judge, as Mr. Lynch
25 indicated. However, the fact that she has no legal status and

1 there is an ICE detainer does not preclude or presume
2 detention. It's a factor to be considered, Judge, but it is
3 not an assessment as to risk of nonappearance, and an
4 involuntary removal does not create or rise this to a serious
5 risk of flight.

6 As to the nature and seriousness of danger posed to
7 any person in the community, again, Judge, I referenced the
8 fact that she came when she heard that they were looking for
9 her. When she arrived, they asked her if she was in
10 possession of anything. And according to the government's
11 proffer, she apparently indicated that she did have something,
12 and they have all of that. So they are in possession of
13 everything that she had, and she did not hide or disclose
14 that.

15 I think that the allegations are clearly an anomaly
16 of somebody who, for 53 years, has led a law-abiding life.

17 And when Mr. Lynch says she's loaded for bear? Well,
18 then, if she was loaded for bear, and she had ill will and
19 intentions, she certainly would not have come to the border
20 and say, Here I am.

21 With respect to the driver's license, Judge, I do
22 indicate, I notice that the document is, in fact, the same
23 document from Texas. I don't know, there were two of them
24 apparently. She was not charged with that crime. She was --
25 those charges were also dismissed. So with respect to conduct

1 of assuming somebody else's identity, Texas did not feel it
2 necessary to pursue those charges, and dismissed those charges
3 as unsubstantiated.

4 So I think you have a balancing that you have to do
5 between the 3142(g) factors, Judge. And I think if you weigh
6 those in their entirety, there are a combination of conditions
7 that can reasonably assure the appearance of Ms. Ferrier and
8 assure the safety of any other person in the community with
9 release.

10 Some of the proposed conditions would be third-party
11 supervision; that she seek or maintain employment that she
12 previously had; observe residency, travel, and associational
13 restrictions. As I indicated, she can surrender all her
14 travel documents. I believe that the government actually is
15 in possession of all of those, except for her French passport,
16 which she's in a position to surrender if released; avoid
17 contact with victims or witnesses; maintain regular reporting
18 requirements; obey a curfew; adhere to any firearms or weapons
19 restrictions; avoid alcohol or controlled substance abuse.

20 She can enter a security bond. The Court can also
21 impose a financial bond which her family may be in a position
22 to post and secure for her.

23 And as I indicated, Judge, if the Court were inclined
24 to release her, but not allow her to return to Canada, there
25 may be other alternative residence in the United States. And

1 if the Court were to allow that, they could -- the Court could
2 also order location and computer monitoring.

3 We have, in other cases with Canadian nationals,
4 Judge, had an irrevocable waiver of extradition executed,
5 together with some financial surety. And the Court has, in
6 the past, released Canadian citizens. And she can comply with
7 any other Court-imposed condition that this Court deems
8 necessary to assure her appearance or ameliorate any danger to
9 the community.

10 Thank you, Your Honor.

11 THE COURT: Mr. Lynch, anything you want to add?

12 MR. LYNCH: Judge, yeah, just a few things.

13 Judge, I just want to touch on a few things.

14 1. The irrevocable waiver of extradition, Judge, is,
15 as this Court is well aware, that's a meaningless document.
16 The Canadian government does not recognize it at all. It will
17 not assist the United States in extraditing the defendant
18 should she go to Canada and not return.

19 But I really want to hammer on a couple things,
20 Judge. The proposed conditions here simply cannot ameliorate
21 the danger that this defendant poses.

22 She has access, apparently, to castor beans, which is
23 necessary to the creation of ricin. This is a highly
24 regulated, highly, tightly-controlled substance, and this
25 defendant apparently has access to it. She mailed it to the

1 President. She mailed it to people in Texas. She had it in
2 her residence in Canada. There's no reason to believe that
3 she wouldn't be able to have access to it again, and seek to
4 harm not only the individuals she apparently is upset with
5 right now, but future individuals.

6 In addition, Judge, she apparently has regular access
7 to semiautomatic handguns. She was caught in 2019 with a type
8 of gun, a .9 millimeter gun.

9 She's got another gun, a different gun, in 2020 when
10 she's arrested at the Peace Bridge. 294 rounds of ammunition.

11 She's got access to fraudulent identification
12 documents, as demonstrated by her two false Texas driver's
13 licenses. There's no reason to believe she can't obtain other
14 documents.

15 And I think, Judge, really, the last point is, she
16 regularly has access to dangerous weapons, including stun guns
17 pepper spray, ballistic vest, batons, and that's in addition
18 to all the more serious items, including the handguns and the
19 ammunition.

20 Judge, I think that there are no conditions or
21 combination of conditions which would assure against her
22 danger to the community, as well as her serious risk of flight.
23 And, therefore, we ask the Court to detain her pending her
24 transfer to the District of Columbia.

25 Thank you, Judge.

1 THE COURT: I have a -- I have a question about the
2 Texas driver's license.

3 MR. LYNCH: Sure, Judge.

4 THE COURT: You've indicated she had two Texas
5 driver's licenses. When I reviewed the government's exhibits,
6 more specifically Government Exhibit 4 and Government
7 Exhibit 6, the information contained in each of those exhibits
8 seems to be exactly the same.

9 MR. LYNCH: They are.

10 THE COURT: So I'm just trying to get a little bit
11 better understanding of how it came to be that you say there
12 were two licenses.

13 MR. LYNCH: Because the first -- or, the one in -- in
14 Government Exhibit Number 6, Judge, it's still in Texas. It's
15 in evidence in the Texas police custody, and I confirmed that.

16 So, now, Government Exhibit 4 is the one she was
17 seized at on the Peace Bridge, so it's a separate document
18 itself.

19 THE COURT: All right. In considering the issue of
20 whether the defendant should be released pending her
21 appearance in the District of Columbia to answer on the
22 charges contained in the indictment from that district, it's
23 the obligation of this Court to take into account and
24 consideration all of the facts and circumstances and other
25 information that have been made known to the Court, and to

1 consider all of that information in its totality.

2 Even though the defendant may not be a citizen of the
3 United States, she nevertheless is a beneficiary of the
4 constitutional rights and protections contained in the
5 Constitution. And one of those rights and protections is the
6 presumption of innocence, and that is a right that cloaks her
7 as far as these charges are concerned.

8 The Bail Reform Act of 1984 as amended also contains
9 a presumption of innocence to an individual charged with a
10 crime, and I acknowledge and consider that presumption as part
11 of the totality of circumstances in reaching my decision in
12 this case.

13 The government has proffered evidence to establish
14 that the defendant:

- 15 1. Is not a citizen of the United States;
- 16 2. That she has the ability to travel within the
17 United States;
- 18 3. That such ability to travel is also accommodated
19 by, allegedly, the use of false documentation.

20 The government proffers the two Texas driver's
21 licenses, further representing that investigation has
22 determined that the driver's license in question, in fact,
23 belongs to someone else in Texas, and that there are two
24 separate Texas driver's licenses, even though they contain the
25 same information. And this is based on the representation

1 that when the defendant originally encountered entanglement
2 with law enforcement in Texas, that driver's license was taken
3 from her and is in the possession of Texas authorities.

4 The government further represents that at the time of
5 her arrest in this case at the Peace Bridge, they found the
6 second identical Texas driver's license. And, once again,
7 those were referred to as Government Exhibits 6 and 4.

8 Defense counsel stresses the factors that I must
9 consider under Title 18 of the United States Code,
10 Section 3142, and she does so rightly. And in reviewing those
11 factors, I note that the first factor put forth is as follows.

12 Quote: The nature and circumstances of the offense
13 charged, including whether the offense is a crime of violence,
14 a violation of Section 1591, a federal crime of terrorism, or
15 involves a minor victim or a controlled substance, firearm,
16 explosive, or destructive device.

17 And that's what I am considering as the foundation
18 with respect to the most important factor in the context of
19 the charge in the indictment, and what previously had been
20 charged in the criminal complaint issued against the
21 defendant.

22 Experience has established that ricin is a highly,
23 highly toxic substance, a dangerous substance, a highly
24 controlled substance, and not easily obtainable legally.

25 The government has proffered that not only did the

1 envelope addressed to Donald J. Trump, The White House,
2 1600 Pennsylvania Avenue, Northwest, Washington, D.C., 20500,
3 USA, contained ricin, as established by a laboratory analysis,
4 counsel advises that Canadian authorities in the province of
5 Quebec where the defendant resides, my understanding is in the
6 community of Laval, also conducted laboratory or forensic
7 analyses of items found in the defendant's apartment, wherein
8 and whereby traces of ricin were found on the objects
9 evaluated or examined.

10 Unfortunately, this country has a history of
11 witnessing assassinations and attempted assassinations of the
12 President of the United States going back to Abraham Lincoln,
13 and then William McKinley here in this very City of Buffalo,
14 New York, the attempted assassination of Ronald Reagan, and
15 now numerous threats that have been made allegedly by the
16 defendant against Donald J. Trump.

17 And in support of the government's position that
18 there, in fact, were threats made, the government has
19 submitted Exhibit 1, the letter that was found, along with the
20 envelope that I referenced, wherein it is expressly stated
21 that the person who sent that note indicates, quote, you
22 ruined the USA and lead them to disaster. I have U.S.
23 cousins, and I don't want the next four year with you as
24 President. Give up and remove your application for this
25 election. So I made a special gift -- and special gift is in

1 quotes -- for you to help you make a decision. This gift is
2 in this letter -- and the contents of the letter, as the
3 government has, represented was ricin.

4 The letter goes on -- or, the note goes on to say, if
5 it doesn't work -- meaning the special gift -- I'll find a
6 better recipe for another poison, or I might use my gun when
7 I'm able to come.

8 That brings me to Government Exhibit 2, which is the
9 photograph of the automatic weapon, a handgun, and the seven
10 shells. Apparently, that would be ammunition that would be
11 operable in that gun.

12 Government Exhibit 3, which is the spring knife, that
13 was allegedly taken from the defendant when she was arrested
14 at the Peace Bridge, as was Government Exhibit 2.

15 Government Exhibit 3, which is another handgun, and
16 12 rounds of ammunition that would be utilized in that weapon,
17 along with a baton and, finally, the bulletproof vest.

18 In this day and age, once again, experience has
19 demonstrated and established that people intent on committing
20 violence oftentimes not only have weapons and substantial
21 information -- ammunition, but they also have protective gear
22 that they utilize, such as a bulletproof vest and other types
23 of protective gear.

24 The government also referenced that there were large
25 or a substantial quantity of ammunition found in the

1 defendant's vehicle at the time of the arrest at the Peace
2 Bridge, as well.

3 Those factors that I just iterated -- involving
4 ricin, and weapons, and ammunition -- and the context of the
5 note contained in the letter, Government Exhibit 1, certainly
6 establish by clear and convincing evidence a threat of
7 violence, a threat of harm to the point of death.

8 And when I say that, I reiterate at the same time the
9 presumption of innocence to which the defendant is entitled,
10 because those are issues that will have to be established and
11 resolved at a trial. But for purposes of this hearing, as to
12 whether the defendant should be released or not, those
13 representations and those pieces of evidence submitted by the
14 government are sufficient for me to conclude that they clearly
15 establish this defendant's capability to commit, or to threat
16 to commit -- threaten to commit acts of violence, including
17 bringing about the death or the homicide of a third party.

18 The use of false identity as alleged by the
19 government also indicates an ability by the defendant to hide,
20 perhaps, her true identity when traveling around, and gives
21 her the means by which she could travel within the United
22 States under that false identity. It's a means by which,
23 should she be released, she could utilize to commit flight.

24 If she were released and allowed to return to Canada,
25 that creates problems of supervision, as the government

1 rightly points out, the U.S. Probation Department would not be
2 in a position to monitor her.

3 If she violated any of the terms and conditions I
4 were to impose, the ability to enforce those regulations or
5 terms and conditions would be practically nil.

6 If there was to be an attempt at extradition, my own
7 professional experience establishes that that is a very
8 lengthy, time-consuming process, and is not always successful.

9 I point out, for example, even though it's not
10 related to the facts of this case, the situation involving the
11 Chinese woman who is presently in Vancouver, and the amount of
12 time that has already expired in the attempts of the United
13 States government to have her extradited from Canada to answer
14 charges in this country. So, it's not an easy thing.

15 And counsel for the government rightly points out,
16 because I've had this experience on the bench, where someone
17 has signed a document entitled waiver of extradition, and the
18 Canadian courts have said they don't acknowledge that as being
19 an effective waiver, so it's a nullity.

20 When I go through the process of the other factors,
21 the second factor, being the weight of the evidence against
22 the person, once again, recognizing the presumption of
23 innocence, but it would appear to me that what has been
24 proffered by the government here today and as evidenced by the
25 exhibits submitted, coupled with a grand jury finding probable

1 cause for these charges by reason of the indictment that has
2 now been returned, it would appear to me the government has a
3 very strong case, especially assuming the legal validity of
4 the alleged admissions made by the defendant at the border or
5 at the time of her arrest at the Peace Bridge about being the
6 person the government was looking for for having sent a letter
7 to the President, the government does have a very strong case.

8 The history and characteristics of the person, that
9 would be Ms. Ferrier, are limited through no fault of her own.
10 But there's very little, really, in the way of background
11 that's been documented or established, other than the fact
12 that the defendant has dual citizenship, being a citizen of
13 France and being a citizen of Canada.

14 Counsel has represented that she does have an
15 educational background as an engineer, that she had employment
16 as an engineer, and that she has family in locations. But
17 basically, that's the extent of it.

18 The pretrial services report is very limited. It
19 only makes reference to the two events in Texas which, quite
20 frankly, were considered apparently minor in nature by reason
21 of the dispositions that occurred.

22 But I see nothing that has been proffered or
23 submitted in the way of documentation that would cause the
24 third factor, that is, the history and characteristics of
25 the -- of the defendant to outweigh what has been presented by

1 the government as to the nature and circumstances of the
2 offense charged and the weight of the evidence against the
3 defendant as to these charges.

4 The one other characteristic belonging to the
5 defendant, of course, is her non citizenship, and being a
6 citizen of France and Canada which, once again, increases the
7 possibility of her being able to return to either one of those
8 two countries should she be released and she undertakes
9 flight, which presents, then, the legal problems of
10 extradition.

11 The fourth factor describes it as being one that
12 involves the nature and seriousness of the danger to any
13 person or the community that would be posed by the person's
14 release. In this case, we're talking about the President of
15 the United States having allegedly been threatened by the
16 defendant as set forth in the indictment.

17 So that, coupled with Government Exhibit 1, the
18 envelope addressed to Donald J. Trump, and the note clearly
19 established that this is -- would be an ongoing threat, at
20 least according to the writer of the note, wherein and whereby
21 it is stated, so I made a special gift for you to help you
22 make a decision. This gift is in this letter -- once again,
23 being the ricin.

24 That's an act of violence, and more than a threat to
25 harm the recipient of that letter.

1 But then the writer goes on to say, If this doesn't
2 work, I'll find a better recipe for another poison -- which
3 indicates an intention to continue in the efforts -- or I
4 might use my gun when I'll be able to come.

5 And we have established by way of what the government
6 proffered in the Exhibit 5 and the other, this defendant
7 possessed weapons that were retrieved in Texas and in the
8 Western District of New York at the time she was arrested at
9 the Peace Bridge, along with large quantities of ammunition,
10 along with a spring knife.

11 That, too, would be indicative of not only the
12 continuing threat to do the act of harm, but that there was
13 the wherewithal by which that harm could be carried out,
14 weapons, two guns or one gun and ammunition, a baton, a spring
15 knife, or getting other poisons.

16 So when I consider all of that in its totality, I
17 conclude that there is clear and convincing evidence, that the
18 defendant does constitute a continuing danger to the President
19 of the United States, as well as to members of the community,
20 which would include those in Texas that she has allegedly
21 threatened, as well as anybody else within the confines of the
22 United States. And that there is also a preponderance of the
23 evidence to find probable cause that she is a risk of flight
24 by reason of the false identity documentation and her lack of
25 citizenship in this country.

1 And, therefore, for those reasons, I am granting the
2 government's motion, and hereby order her detained and
3 remanded to the custody of the United States Marshal Service
4 for the purpose of transporting her as soon as reasonably
5 possible to the District of Columbia for purposes of
6 responding to the indictment returned in that district.

7 I am also reserving the defendant's right to renew
8 her claim for consideration of bail, and any other rights that
9 she wishes to put forward at the time of her appearance in the
10 district.

11 I think that completes all that needs to be done in
12 this Court. Anything further, Ms. Kubiak?

13 MS. KUBIAK: Judge, just with respect to her
14 transfer, we have experienced in other cases a tremendously
15 long delay on their transfer, and they bounce all over the
16 country, and it's taken months. I would ask that the Court
17 direct the marshals to transport her forthwith, in that the
18 statute really reflects that they have ten days to do so.

19 THE COURT: Mr. Lynch?

20 MR. LYNCH: Well, Judge, I -- I -- I agree that she
21 should be transferred as soon as possible. I think we live in
22 a time right now where people's travel around the country
23 is -- is limited by virtue of the pandemic and coronavirus.
24 So while I trust that Marshal Service will endeavor to move
25 her as quickly as possible, I also understand that there are

1 precautions that need to be put in place that make this sort
2 of an extraordinary situation that we're facing, and that we
3 haven't faced in more than a hundred years.

4 So with that acknowledgment, I still think the
5 Marshal Service will do their best, I just don't know that ten
6 days is going to be what they're going to be able to do.

7 MS. KUBIAK: Judge, I would reserve any of her Speedy
8 Trial rights with respect to the transfer, and allow the
9 District of Columbia to assert those should there be undue
10 delay in her transfer.

11 THE COURT: That reservation is granted. But as you
12 heard me state in my directive when I remanded the defendant
13 to the custody of the U.S. Marshal Service or the Attorney
14 General of the United States for transport to the District of
15 Columbia, I stated that it be done as soon as reasonably
16 possible, which would take into account all of the factors and
17 circumstances that we now are faced with in these days,
18 including the COVID-19 pandemic.

19 MR. LYNCH: Thank you, Judge.

20 THE COURT: Anything further?

21 MR. LYNCH: No.

22 MS. KUBIAK: No, Your Honor.

23 THE COURT: Thank you, everyone. Stay safe.

24 (Proceedings concluded at 3:22 p.m.)

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CERTIFICATION

I certify that the foregoing is a
correct transcription of the proceedings
recorded by me in this matter.

s/ Ann M. Sawyer

Ann M. Sawyer, FCRR, RPR, CRR,
NYRCR, NYACR, Notary Public
Official Reporter
U.S.D.C., W.D.N.Y.